

In re) Fair Hearing No. 15,885
)
Appeal of)

The petitioner appeals a decision by the Department of Social Welfare determining that she is ineligible for VHAP coverage of orthodontic treatment.

1. The petitioner is a thirteen-year-old girl who applied for VHAP coverage for orthodontic treatment in early 1999. In support of her application, her orthodontist filled out a form provided by the Department listing diagnostic criteria that must be met to receive coverage. The petitioner did not meet any of the criteria but her orthodontist asked for treatment of both the lower and upper arches in order to give her "better function" following reported pain in the temporo-mandibular joint.

2. In March of 1999, the Medicaid Division denied coverage to the petitioner because her "orthodontic problem [is] not severe enough to qualify for treatment." The petitioner appealed this decision and a hearing was convened

April 7, 1999. After several continuances and a fuller explanation for the reason for denial, the petitioner's mother was given an extension to provide evidence that the petitioner actually suffered from temporo-mandibular joint disease and that the orthodontic work was expected to alleviate that condition.

3. On February 10, 2000, the Department forwarded new information it had lately received from the petitioner including a report from her dentist that the petitioner appeared to have mild left-sided "TMJ" arthralgia. His plan was to consider orthodontics to correct her anterior open bite and or the use of a flat plane splint. The petitioner also provided some general medical records which contained no specific information relative to her request for orthodontic care. (These records mainly concern rehabilitative measures taken following a brain trauma suffered by the petitioner when she was four-years-old.)

4. The Department indicated that it had agreed to provide a flat plane splint but that it was still denying orthodonture because it was not being used to correct a TMJ problem but was being used to correct an open bite.

5. On February 16, 2000, the hearing officer wrote to the petitioner asking her to obtain clarification from her

dentist as to whether she has temporomandibular joint dysfunction; whether he recommends orthodontic treatment to repair the joint dysfunction, and what orthodontic treatment he recommends.

6. No further information has been received in the two months since that information was requested.

ORDER

The decision of the Department is affirmed.

REASONS

Vermont's Medicaid program (which is used as a reference for VHAP coverage) will cover orthodontic treatment for beneficiaries under the age of 21 if the treatment is "medically necessary" and "involves the use of one or more prosthetic devices to correct a severe malocclusion." M622.1 and 2. The Department has adopted diagnostic criteria listing major (cleft palate; 2 impacted cuspids; other severe craniofacial anomaly) and minor criteria (1 impacted cuspid; 2 blocked cuspids; 3 congenitally missing teeth per arch; anterior open bite 3 or more teeth; crowding; anterior crossbite; traumatic deep bite impinging on plate; overjet 10+ mm). The regulations require that the "beneficiary's

condition must have one major or two minor malocclusions" in order to be considered "medically necessary" and to receive pre-approval for coverage. M622.3 and 4.

The petitioner's dentist did not find that the petitioner had any of the above conditions. As such, the petitioner could not be pre-approved for orthodontic care. Because there was an indication in the reports that the petitioner might have temporomandibular joint syndrome, the petitioner was asked to submit evidence of this. This is because the Board has ruled in prior cases that the Department cannot deny certain dental services necessary to treatment of TMJ because it is a covered condition. Pursuant to this request, the petitioner provided some information making reference to a TMJ related problem and a plan to deal with it but the information was too vague to draw the conclusion that the petitioner indeed has this disease and that orthodontic care is medically necessary in its treatment.

If the petitioner can gather more specific information, she may reapply at any time. The Department has also suggested to the petitioner that she might want to seek a Medicaid exception pursuant to the regulations at M108. She is urged to discuss this with her worker.

#

